

REMARKS

Claims 3 and 14 are canceled. Claims 1, 2, 4-13 and 15-19 are pending in this application. The claims have been amended to more particularly point out and distinctly claim Applicants' invention. No new matter is added. The features in the claims as amended were present in the originally filed specification.

35 U.S.C. 102 Rejections

The Office Action states on page 2 that claims 1, 2, 5 and 7-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,220,759 ('759) to Miller. Applicants respectfully traverse the rejection. Applicants submit that Miller does not teach the feature of amended claim 1 that the shaft has at least one pocket within the shaft and a spring is located in the pocket. The claims as amended state that the shaft itself has a pocket within the shaft in which a spring is located. In stark contrast, in the Miller reference, the spring 32 is located outside of the shaft 18 and is not located in a pocket within the shaft 18. As the cited reference fails to teach at least one feature in the claims as amended, applicants request reconsideration and withdrawal of the 35 U.S.C. 102 rejections of the claims.

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35 U.S.C. 103 Rejections

The Office Action on page 3 that claims 1, 2, 5 and 7-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Miller in view of U.S. Patent 4,134,281 to Pelcin. Applicants respectfully traverse the rejection. The Office Action states that if the claim

included the feature that the pocket is within the shaft, then the above cited combination of references would be made. The examiner states that Miller teaches all of the claimed features except that the pocket is within the shaft. It is then stated that it would have been obvious to substitute a spring mounted within a pocket within a shaft for the spring of the Miller reference based on the teaching of Pelcin in Fig. 8 of a spring within an alleged pocket between collar 166 and the housing 62.

It is submitted that the proffered combination of Miller with Pelcin would not give one of ordinary skill in the art any expectation of success that combining the two references would lead one to the present invention. In addition, it is submitted that substituting the spring arrangement of Pelcin in the latch assembly of Miller would destroy the utility of the Miller reference for its intended purpose.

In U.S. Patent 3,220,759 to Miller, a latch assembly is disclosed having a latch plate 20 having tongue 21. U-shaped spring 32 urges latch plate 20 such that tongue 21 pivots toward the edge 31 to assume a closed position. In stark contrast, the torsion spring 160 of Miller is wrapped around shaft 30. As set forth in col. 6, lines 31 to 40, collar 166 drivingly engages an upper end portion 168 of spring 160 and biases the handle 60 toward the nested position. It is respectfully submitted that the spring of Pelcin is not located in a pocket within the shaft nor is there any teaching, motivation or suggestion in Pelcin to one of ordinary skill to provide a pocket in the latch assembly of Miller. Therefore, applicants request reconsideration and withdrawal of the 35 U.S.C. 103 rejections.

Further, it is submitted that providing the torsion spring of Pelcin in the latch of Miller would destroy the latch of Miller for its intended purpose. It is not clear to applicant how a pocket could be provided in rib 18 which the examiner considers to be a shaft such that the latch could still perform its intended function. Accordingly, it is submitted that the proffered combination of Pelcin with Miller would destroy the utility of the latch assembly.

A rejection which is based on a combination of features from a secondary reference which when combined with a primary reference would destroy the utility of the product of the primary reference must fail. *See In re Fritch* 23 USPQ2d 1780 (Fed. Cir. 1992).

Therefore, applicants request reconsideration and withdrawal of the 35 U.S.C. 103 rejections.

The Office Action on page 3 states that claims 4 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Miller or Miller in view of U.S. Patent 4,134,281 to Pelcin and further in view of U.S. Patent 2,803,956 to Womer. Applicants respectfully traverse the rejection. With respect to claims 4 and 6, applicants submit that the primary reference Miller alone or Miller in view of Pelcin fails to teach the feature of amended claim 1 that the shaft has at least one pocket within the shaft and a spring is located in the pocket nor is there a motivation, suggestion or teaching in the Womer reference alone or taken in combination with the previously cited references that would lead one of ordinary skill in the art to arrive at the present invention. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejections.

Claims 10, 18 and 19 are rejected on page 4 under 35 U.S.C. §103(a) as being unpatentable over Miller or Miller in view of Pelcin in further view of U.S. Patent 5,718,467 to Weinerman. Applicants submit that the cited references fail to teach the feature that the shaft has at least one pocket within the shaft and a spring is located in the pocket nor is there a motivation, suggestion or teaching in the Weinerman reference alone or in combination with the previously cited references that would lead one of ordinary skill in the art to arrive at the present invention. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejections.

On page 4 of the Office Action, claim 11 is rejected as being obvious under 35 U.S.C. §103(a) over the Miller reference or Miller in view of Pelcin and further in view of

Weinerman as applied to claim 10 above and further in view of U.S. Patent 6,085,928 to Dickinson. Applicants respectfully traverse the rejection. Applicants submit that the cited references fail to teach the feature that the shaft has at least one pocket within the shaft and a spring is located in the pocket nor is there a motivation, suggestion or teaching in the Weinerman reference alone or in combination with the previously cited references that would lead one of ordinary skill in the art to arrive at the present invention. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejection.

Claim 12 is rejected under 35 U.S.C. 103(a) over the Miller reference or Miller in view of Pelcin and further in view of Weinerman and Dickinson as applied to claim 11 and further in view of U.S. Patent 5,901,501 to Fountaine. Applicants respectfully traverse the rejection. It is submitted that the Fountaine reference either alone or in combination with the previously cited references does not teach what is lacking from the Miller reference with respect to a shaft which has at least one pocket within the shaft and a spring located in the pocket nor is there a motivation, suggestion or teaching in either reference of that feature. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejection.

Claims 13 and 16 are rejected under 35 U.S.C. 103(a) over the Miller reference or Miller in view of Pelcin in view of Weinerman as applied to claim 10 and further in view of the Dickinson reference and an additional teaching of Weinerman. Applicants respectfully traverse the rejection. It is submitted that none of the cited references alone or in combination teach what is lacking from the Miller reference with respect to a shaft which has at least one pocket within the shaft and a spring located in the pocket nor is there a motivation, suggestion or teaching of that feature. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejection.

Claims 15 and 17 are rejected under 35 U.S.C. §103(a) over the Miller reference or Miller in view of Pelcin in view of Weinerman and Dickinson and further in view of Womer. Applicants respectfully traverse the rejection. It is submitted that the Womer reference does not teach what is lacking from the Miller reference with respect to a shaft which has at least one pocket within the shaft and a spring located in the pocket nor is there a motivation, suggestion or teaching of that feature. Accordingly, applicants request reconsideration and withdrawal of the 35 U.S.C. §103 rejection.

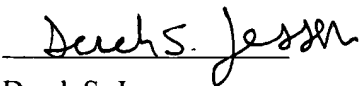
CONCLUSION

For the reasons set forth above, Applicants' present invention, as recited in the amended claims now more clearly and particularly, is patentable. Reconsideration and withdrawal of all outstanding rejections in this case is hereby respectfully requested.

If further matters remain in connection with this case, the Examiner is invited to telephone the Applicant's undersigned representative to resolve them.

Respectfully submitted,

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